DOCUMENT RESUME

ED 393 536 JC 960 246

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TITLE	The New Youth Entrepreneur: The Rules of the Game. Module 10.
INSTITUTION	Education, Training, and Enterprise Center, Inc., Camden, NJ.; Ewing Marion Kaufmann Foundation, Kansas City, MO. Center for Entrepreneurial Leadership.
PUB DATE	95
NOTE	45p.; For Modules 1-12, see JC 960 237-248.
AVAILABLE FROM	EDTEC Education, Training, & Enterprise Center, Inc., 313 Market Street, Camden, NJ 08102.
PUB TYPE	Guides - Classroom Use - Instructional Materials (For Learner) (051)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Business Administration Education; Business Skills; *Compliance (Legal); *Contracts; Education Work Relationship; *Entrepreneurship; Federal Regulation; Learning Activities; *Legal Responsibility; *Self Employment; *Small Businesses; State Regulation
IDENTIFIERS	*Business Law

ABSTRACT

The New Youth Entrepreneur curriculum is a series of 12 youth-oriented educational modules containing instructional materials, learning activities, and checkup exercises designed to teach students key elements of entrepreneurship. This document is the tenth module, and examines laws governing the operation of small businesses. Following introductory materials on the importance of understanding business regulations, the first three sections discuss contracts, describing the three elements necessary for the existence of a contract (i.e., an offer, a consideration, and an agreement), characteristics of and differences between oral and written contracts, and special conditions for minors entering contracts. The fourth section reviews necessary legal paperwork, including registering the business and tax forms, while the fifth section focuses on issues related to determining whether licenses and permits are required. The final sections cover laws affecting the operation of a business, including building codes, health and safety laws, anti-discriminatory measures and wage laws, and tips on getting help from lawyers. (CELCEE, an Adjunct ERIC Clearinghouse on Entrepreneurship Education) (MAB)

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The New Your[illegible] Entrep[illegible]

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TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

The Rules Of The Game

IC 960 246

Module 10

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Special thanks to –

Kelly Brine, Illustrator
and

Anne Marie Conway

Alice Darnell

Kate Pope Hodel

Dr. Stella Horton

Barbara Saltzman

Mark Watson, ESQ

for their contributions to the curriculum, production and review process.

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THE NEW YOUTH ENTREPRENEUR

The Rules of the Game

Module 10

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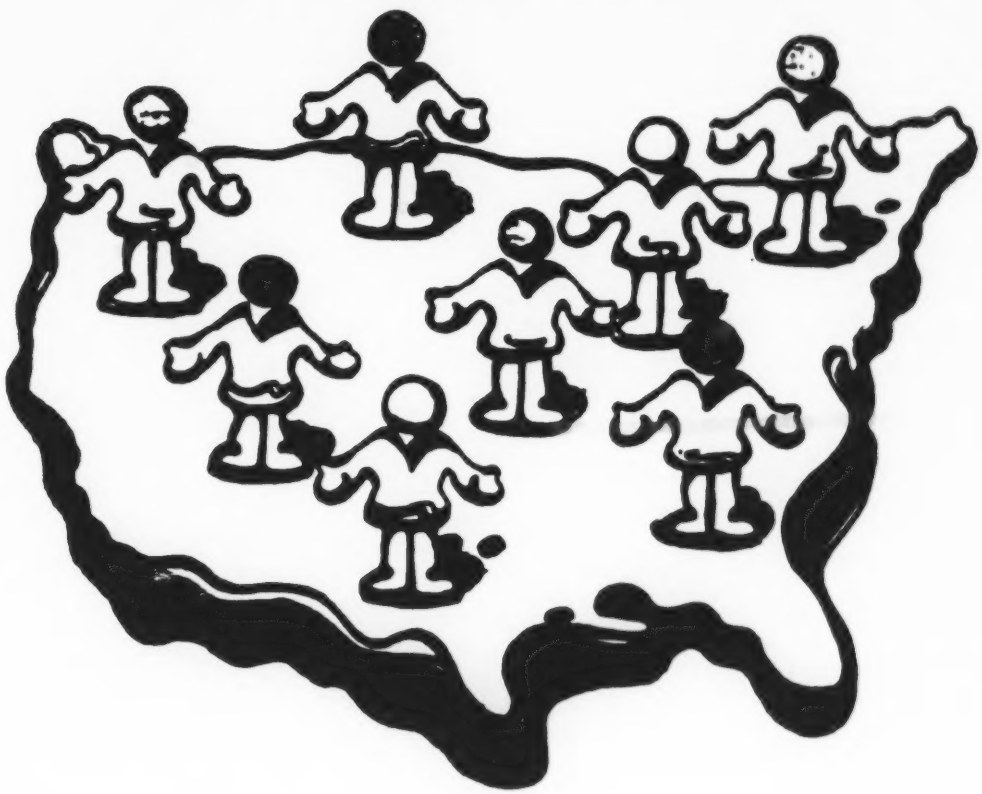
The Rules of the Game

- Making deals/recognizing contracts
- Contracts - written and oral
- Minors and contracts
- Legal paperwork
- Licenses and permits
- Rules and regulations
- Getting help from a lawyer
- The rules of the game

America is loaded with

young entrepreneurs

(Y.E.'s)...



...young people in
business for themselves

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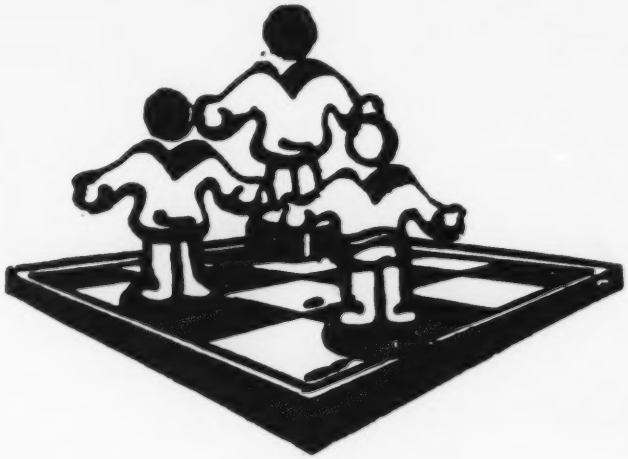
The Rules of the Game

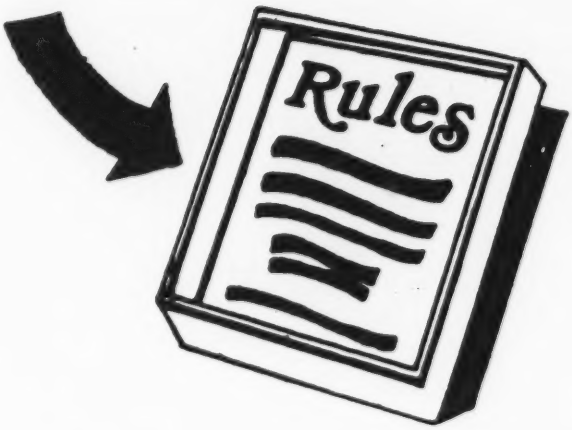
To young entrepreneurs who enjoy their work - setting up a business and keeping it going may be so much fun it seems almost like a game.



Business is a game of sorts...a **serious** game!

Like every game,

THE BUSINESS GAME HAS RULES.



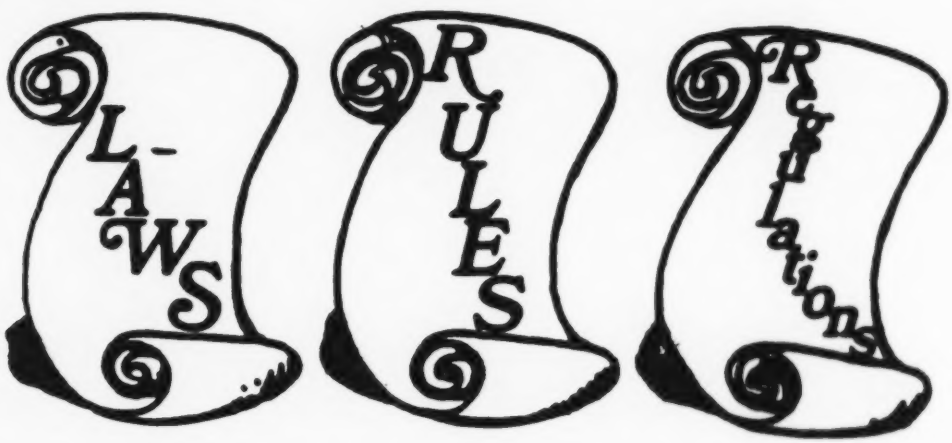
The Rules of the Game

RULES? ⟹ **Yes!**

WHY? ⟹ **Mostly to protect all kinds of people including you, the young entrepreneur.**

But sometimes, especially for someone new to the business world, THE RULES can be confusing.

The RULES OF BUSINESS may be called **laws, rules** or **regulations.** We'll call them laws.



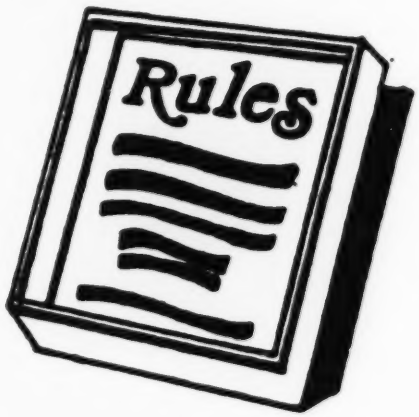
The Rules of the Game

WHAT CAN I DO? ⟹ **Get to know the basic rules; some of them are common sense.**

WHY? ⟹ **So you can play the game effectively.**

WHAT ELSE CAN I DO? ⟹ **Get to know a lawyer who you can call on for some of the more specific rules.**

All of this will help you stay within the law.



The words:
"Stay within the law"

mean the same as:
"Play by the rules"

When people play by the rules, the game may have a loser, but the players are less likely to get hurt.

Games where people don't play by the rules often end up with someone seriously injured.

The business world is not very different. Even playing by the rules you can still lose. But, if you have obeyed the laws, you are less likely to get badly hurt!

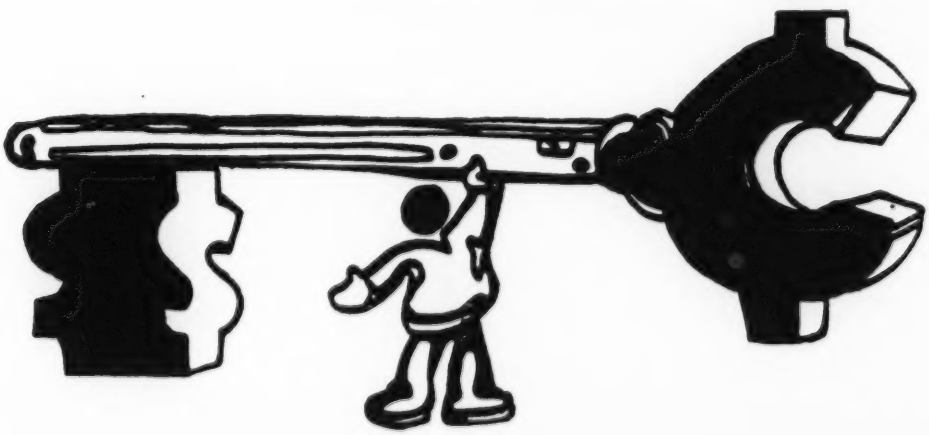
CAN A LAWYER GUARANTEE THAT MY BUSINESS WILL BE A SUCCESS?

NO!

Y O U

are your only key to success.

YOUR LAWYER MAKES YOU A STRONGER KEY.



The Rules of the Game

PLAYING BY THE RULES

Jo's mother runs a pet shop. Jo has been amazed at all of the regulations that her mother must follow in running the shop. There are certain licenses she must get to operate her business—licenses she buys from the local and state governments. Since she has one employee, she also must pay various taxes to the state and federal governments for that employee. Also, there are regulations of the state which require that the animals be given certain types of vaccinations before being sold to the public. All of this means costs, costs, costs. Jo wondered if the government did anything besides add burden and costs to the operation of a small business.

She thought of the government as being against small business until a couple of things happened in running the business. She found that mother's major competitor was fined a considerable amount of money for some unfair business practices—deceptive advertising and not having many of the pets given the required vaccinations. Both Jo and her mother found that business picked up after the disclosure about the fines for their competitor. They also found that they had to move because the building where they were located was about to be demolished and replaced by a larger one. They looked for property throughout the city and found an area where they could locate which had much lower rents because the landlord was given some tax breaks by the government.

Jo realized that government, in some instances, is the referee. In other cases, government is the protector. In other instances, government is the encourager. The government plays a lot of roles and affects business through its actions. Jo realized that it is important for the small business person to know the rules of the game as well as to keep up with what government is doing which affects the small business person.

The Rules of the Game

After reading this module, you should be able to:

1. Name three requirements for a contract.
2. Differentiate between a legally binding contract and an agreement.
3. Name at least three instances where oral contracts are generally all right to use.
4. Explain four reasons why written contracts are better than oral contracts.
5. List four examples of contracts which should be in writing.
6. Define warranty of merchantability and explain how it relates to contracts.
7. Explain why the law gives special consideration to minors in the area of contracts.
8. Explain why many business people will not make certain contracts with minors.
9. Define ways in which people become emancipated minors.
10. Explain why minors should not take undue advantage of the law by avoiding the contracts that they make.
11. Indicate at least three special permissions that many small businesses may have to secure from the government.
12. Give three examples of businesses where the business must be licensed or registered.
13. List at least three different ways that people can prepare themselves to be licensed.

The Rules of the Game

14. Explain the nature of the following types of laws:
    a. Zoning and building codes.
    b. Health and Safety Laws.
    c. Anti-discrimination Laws.
    d. Truth-in Advertising.
    e. Truth-in Lending.
    f. Minimum Wage Laws.
    g. Pension Laws.
15. Name and describe the two federal taxes which are withheld from the employee's salary.
16. Name and describe at least three other taxes that a small business person has to pay on behalf of his/her employees.
17. Distinguish between withholding of employee's pay and payment of extra taxes for the benefit of the employee.

Making Deals/Recognizing Contracts

Doing Business is Making Deals

Two different names for a DEAL are:

1. Contract
2. Agreement

Know what *is* a legally binding deal and what looks like, but is not, a legally binding deal.

**Good business is:
two (or more) people
making a deal
and following up on it.**

Good business means performing until your job is done.

A **deal** is a contract. Once you make a contract, both sides must perform on it. If one side doesn't "perform", the other party can take the nonperforming party to court and make him/her perform or pay money for not performing. This is what legally binding means—the courts will take action and make the nonperformer do something for their wrong doing.

A CONTRACT has three parts:

1. A serious and definite offer.
2. A consideration - something a person is bargaining for.
3. A serious acceptance of the offer.

Making Deals/Recognizing Contracts

A contract is not just a promise!

EXAMPLE: Mrs. Jackson told Will, "I'll give you $100".
Will said, "Yeah! OK!"

THIS IS NOT A CONTRACT, IT IS ONLY A PROMISE.

Can you explain why? Fill in the blanks below:

As stated above, a contract needs three things:

1. an O_____.
2. a C_____.
3. an A_____.

Mrs. Jackson made an OFFER. Write her OFFER here:

_____

Will made an ACCEPTANCE. Write his ACCEPTANCE here:

_____

Was there CONSIDERATION? YES __ NO ___

Hopefully, you answered no. Since there was no CONSIDERATION, this was **NOT** a deal. It was only a PROMISE. This is an example of an agreement which is **not legally binding**.

Making Deals/Recognizing Contracts

ANOTHER EXAMPLE: This time Mrs. Jackson says: "I'll give you $100, **if** you paint all the outside wood on my house green before the Fourth of July."

Will says: "Yeah! OK! I'll paint the outside of your house green before the Fourth of July, **if** you will buy the paint, and **if** you will pay me the $100 the day I finish the job." Mrs. Jackson agrees.

This is a contract.
It has consideration in it.

The CONSIDERATION in a contract is what each party is providing for the other.

The CONSIDERATION to Mrs. Jackson is:

- Getting her house painted.
- The right color (green).
- On time (before the 4th of July).

The CONSIDERATION to Will is:

- That Mrs. Jackson will buy the paint.
- That Mrs. Jackson will pay him $100 the day he finishes the paint job.

More About Offers

OFFERS MUST BE SERIOUS AND DEFINITE

EXAMPLE:

It's 10 p.m. on July 3rd, and Mrs. Jackson and Will are sitting on Mrs. Jackson's front step.

Will says: Mrs. Jones gave me $10 just for sweeping her porch!

Mrs. Jackson says: Yeah! Sure! And I'll give you $100 if you paint my house before the 4th of July.

THIS IS NOT A CONTRACT because:

Mrs. Jackson wasn't SERIOUS. She was being sarcastic. She was trying to say that she didn't believe Mrs. Jones paid Will $10 for just sweeping the porch.

Answer the following questions about this situation:

1. Was Mrs. Jackson TRYING to make a CONTRACT? YES ___ NO ___
2. Was it DEFINITE? YES ___ NO ___
3. What does "paint my house" mean:

   What COLOR? What PART of the house?
4. When must the job be completed?
5. How long does the painter have to do the job?

   (HINT: How much time is there from JULY 3rd to JULY 4th?)
6. Can it possibly be done in that time? YES ___ NO ___

Making Deals/Recognizing Contracts

Important contracts should be in writing and signed by both people.

SIDE 1: The Offerer - Person who makes the offer.

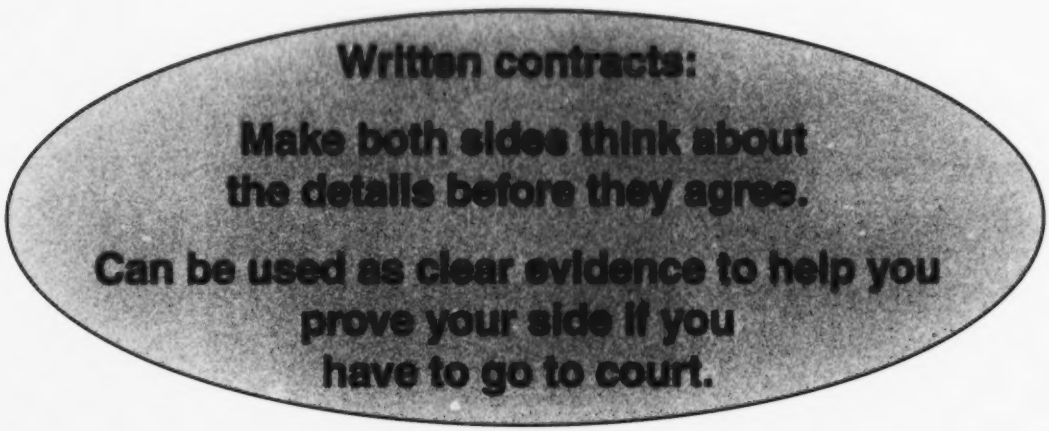
SIDE 2: The Acceptor - Person who accepts the offer.

Contracts - Written and Oral

WRITTEN CONTRACTS

WRITTEN CONTRACTS REMIND EVERYONE OF WHAT WAS AGREED ON.

- Dates of performance.
- Quality of goods or services.
- "Specs" (specifications such as color, size, shape) or specific work to be done.


Written contracts:
Make both sides think about the details before they agree.
Can be used as clear evidence to help you prove your side if you have to go to court.

NOTE: In some states, written contracts with consumers must be in simple, easily readable language. This is called PLAIN LANGUAGE.

Contracts - Written and Oral

ORAL CONTRACTS

Oral contracts, "Handshake Deals" are made by talking, not by writing.

ORAL CONTRACTS (I'll give you the money, you give me the goods.)

Are **good** for:

- buying groceries
- buying magazines
- getting a ride on a bus
- getting a parking space for the movies

Are **not good** for:

- buying a house
- buying a car
- buying a business
- buying supplies
- buying equipment
- renting equipment
- long term leases

THE TROUBLE WITH ORAL CONTRACTS:

- They lead to mistakes, confusion and misunderstandings.
- It's hard to remember all the details.
- Each side tends to picture a different deal.
- It's hard to prove your contract in court. It's your word against theirs.

Contracts - Written and Oral

EXAMPLE: Confusion in an Oral Contract

Will owns two cars. He is planning to sell his beat-up 1972 Dodge.

A 1992 LINCOLN A BEAT-UP 1972 DODGE

Which car did Mrs. Jackson buy? Is there a chance for a misunderstanding about which car Will was selling?

YES _____ NO _____

Why? Will THOUGHT he sold the beat-up Dodge. Mrs. Jackson THOUGHT she got a bargain on the Lincoln!

A WRITTEN CONTRACT would have said:

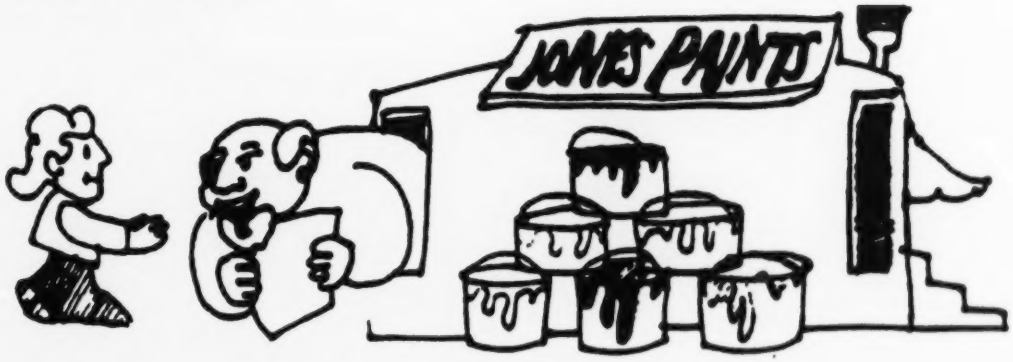
- Which car was involved in the deal.
- How other details were to be handled. How about the $350 stereo Will just installed in the Dodge? Or the $250 wire rims? Did he intend to sell them with the car?

Get it in writing and have it signed!

Contracts - Written and Oral

EXAMPLES OF CONTRACTS YOU SHOULD GET IN WRITING:

Contracts with suppliers



Purchase Orders: Will writes out an order to Mr. Jones for supplies and wants them delivered. Mr. Jones then delivers the supplies.

The Result = A CONTRACT

Will's Written Order = THE OFFER

Delivery of what was ordered = THE ACCEPTANCE

Loans from the bank: The bank will MAKE SURE it's in writing!

Lease of Will's workshop

Lease of Will's business computer

Contracts - Written and Oral

WARRANTY

The law adds another important item to ALL your contracts as an entrepreneur. If you are in the business of selling a **product**, the Law says you **automatically warrant** that the product is good for its intended use. If the product is defective or does not work:

You must **replace** the product
OR
You must **give back** the customer's money.

This WARRANTY OF MERCHANTABILITY does NOT come from a written or an oral contract. It comes from the LAW for ALL contracts where the business normally sells the product.

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Minors and Contracts

RULES FOR CONTRACTS WITH MINORS ARE DIFFERENT THAN FOR CONTRACTS WITH ADULTS

WHAT IS A MINOR? A MINOR is someone who is under "Legal Age".

LEGAL AGE IS:

- 18 years old in some states.
- 21 years old in other states.
- 18 or 21, depending on what part of the law is being dealt with.

The law in most states says minors are **too young** to have the capacity to make a contract. **Therefore,** in most states, adults cannot make minors perform on their contracts. This is a situation where the law provides special privileges to minors.

Problem: Some adults may not want to sign a contract with a minor because they won't be able to make the minor perform.

Question: Are there ever times when the courts might force a minor to perform on a contract?

Answer: YES! Sometimes the courts **will** enforce a contract against a minor, if he/she is **emancipated.**

Minors and Contracts

Question: What is an **emancipated minor?**

Answer: An emancipated minor may be one who is:

- Out on his/her own, and not depending on parents.
- Renting an apartment.
- Running his/her own business.
- Married.

But, many adults are still wary, because different courts make different decisions on minors' contracts.

Solution: Performance - being on time, with good products and good service.

Important: Unless you have other solid reasons for doing it, **never** use your age to **slip out of** a contract.

- It's bad for business.
- You may get stuck with a bad reputation that follows you into adulthood.

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Contracts

Check Point! Check Your Understanding

1. What are the three essential qualities for a legally binding contract?

2. What is meant by "serious" when talking about a "serious offer" and "serious acceptance"?

3. Define what is meant by "consideration" when talking about contracts.

4. Define what is meant by "legally binding".

5. Give five reasons why it is better to get a contract in writing rather than having a contract made orally. Name at least three types of contracts which should be in writing.

Contracts

6. Name at least four instances where oral contracts are very effective.

7. A merchant who sells you a good has a warrant of merchantability with which he has to comply. What does that mean?

8. Suppose that a minor agrees to contract with a merchant to buy a new CD player to be paid off over two years. According to the law, the minor can avoid the contract — in other words, not live up to it. Why does the law permit this type of situation?

9. Is it a good idea for a minor who makes contracts to avoid most of them? Why or why not?

10. What is an "emancipated minor" and name at least two characteristics which make a minor become an emancipated minor.

11. Suppose that Mr. Jones, who is 30 years old, does some grocery shopping for his family of four. He gets $75 worth of groceries and pays cash for them. Answer the following questions in regard to whether a contract was made for these groceries.

    a) Was there a serious offer? If so, how would you describes the serious offer?

    b) Was there a serious acceptance? If so, how would you describe the serious acceptance?

    c) Was consideration given by both sides? If so, what was the consideration?

    d) If the carrots that Mr. Jones purchased are rotten, does he have a legal right to ask for a suitable replacement or the return of his money? Why or why not?

Legal Paperwork

MAKE SURE YOU FOLLOW THROUGH ON THE LEGAL PAPERWORK NEEDED TO START AND CONTINUE YOUR BUSINESS

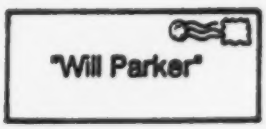
1. **Legal Paperwork :**

   a) Figure out your business name.

   b) Check with your county to see if you must register your business name.

   NOTE: Any name that is not **exactly** your own name, a "fictitious name", usually must be registered.

EXAMPLE:



DON'T have to register

MUST register because: Will's name is not Will Parker's Paint Shop.

Legal Paperwork

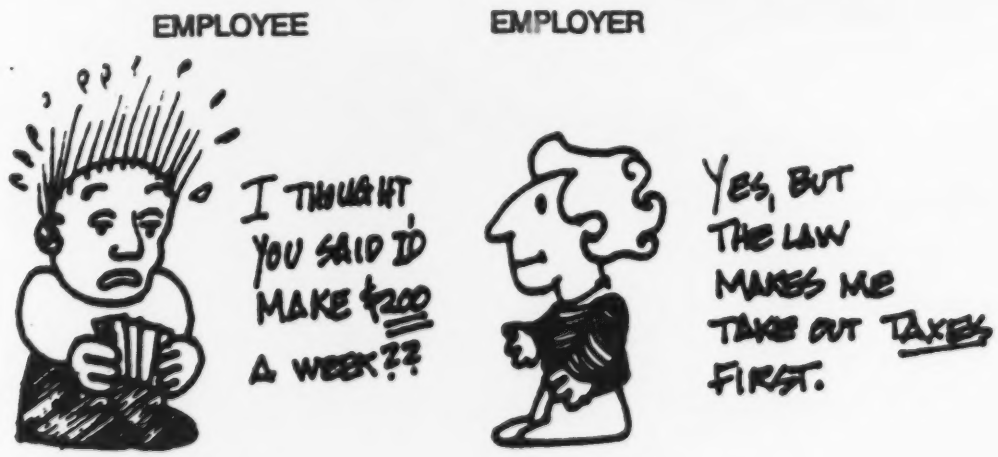
2. **Federal Payroll Tax Paperwork: IF** you have employees (When you pay employees, you must **first** take out deductions for **Federal Taxes** that the employee must pay.) Federal deductions from the employee's pay include:

   - Social Security/Medicare
   - Federal Income Tax (the employee's)

   a) Apply for your Federal Tax Number, known as your EMPLOYER IDENTIFICATION NUMBER (EIN) by:

      - Checking with your lawyer.
      - Checking with your accountant.
      - Applying to the local IRS (Internal Revenue Service) office.

   b) YOUR ACCOUNTANT WILL TELL YOU WHAT TO DO WITH THE EMPLOYEE TAX MONEY. Always use your EIN number when paying employee federal taxes!



3. Federal and State CONTRIBUTIONS - Besides deducting money from the employee's paycheck, the law requires you to kick in extra money for your employees.

   YOU pay:

   - Social Security Matching Funds (Federal) - This means that you match the amount you withheld from their pay for Social Security and Medicare.
   - Unemployment Contributions (State and Federal) - Both the state and federal government have insurance programs for those who lose their jobs and cannot find another one right away.
   - Disability Contributions (State) and Workmen's Compensation (State) - This is an insurance that you buy in order to protect workers who become disabled because of an accident on the job (workmen's compensation) or have to leave the job because of a disability which is not work related.

4. **State Payroll Tax Paperwork (IF** you have employees)**:** In addition to federal deductions, the State requires you to deduct (remove or take out money) from the employee's pay for:

   - State Income Tax

Both the federal and state governments require that you withhold part of the employee's pay and forward the withholding to the appropriate governmental unit. There are specific procedures each state has for doing this. This is a situation where you should consult a lawyer or an accountant to get information about how to follow the procedure correctly.

5. **Other possible taxes:** There are several more taxes you may be required to pay:

   - State Sales Tax - Many states make businesses charge tax on goods or services sold, and pay it to the state.
   - State Income Tax - YOURS, not the employees' this time. This is a tax on your business income.
   - City or Local Taxes on businesses - different kinds.
   - State Franchise Tax - on corporations.
   - State Unincorporated Business Tax.
   - State Personal Property Tax.
   - Others.

Again, seek the assistance of a lawyer or an accountant to get you started in filing the forms for all of these taxes.

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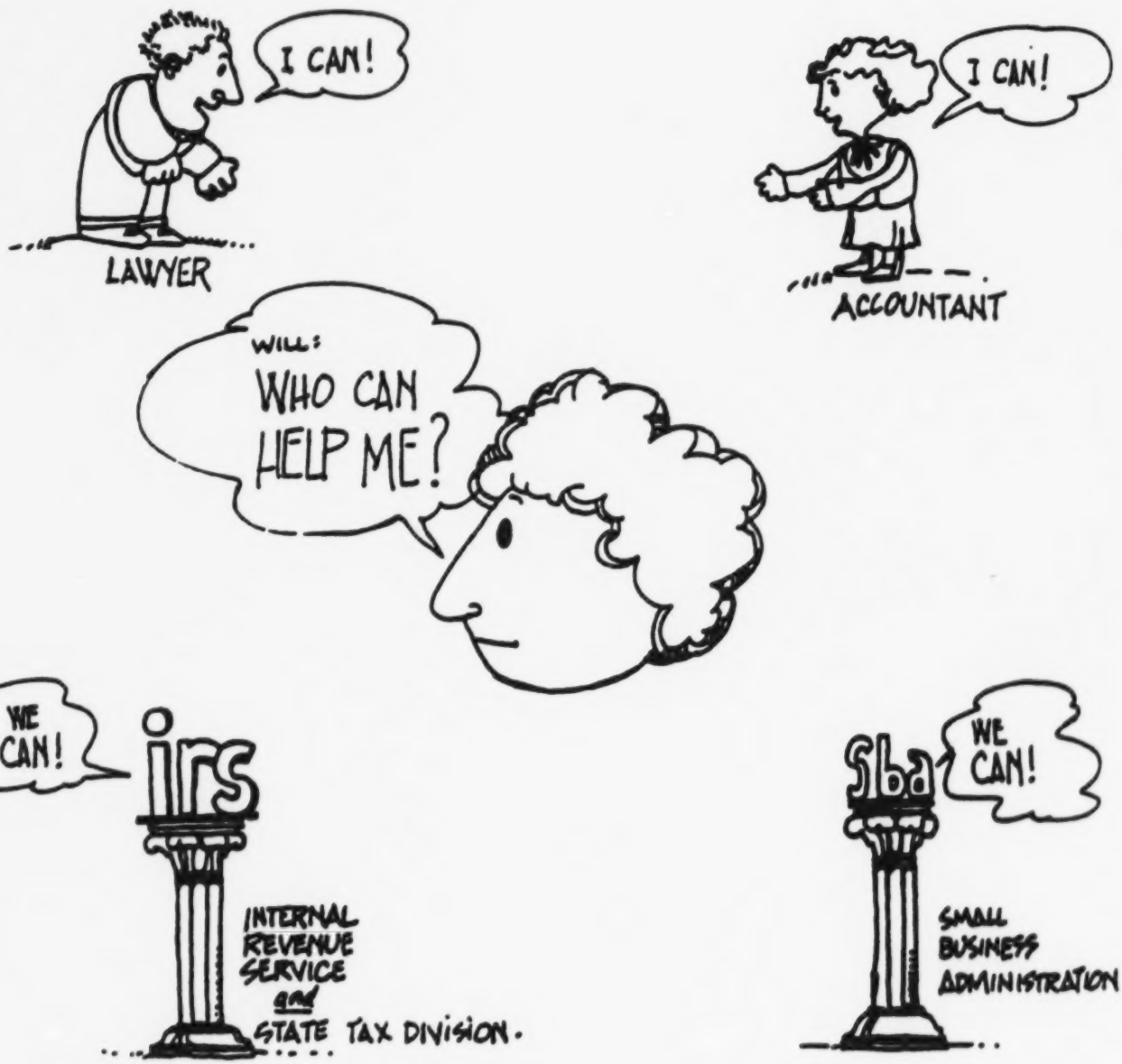
Legal Paperwork

There are many sources of help and information for getting your start-up paperwork done the right way.



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Licenses and Permits

Determine Whether Licenses or Permits Are Necessary for Your Business

Special permission from the government is needed for some businesses. Often, you need special training and have to take a test. See your lawyer to find out if you must:

a. Just "register" with the State or Local Government:

- "Hello, I'm in the Home Repair Business."

b. Gain a permit from the local government:

- "I'd like to sell door-to-door and need a permit."

c. Prove you have special skills to get a license.

Problem for young entrepreneurs: You are too young to get **most** licenses.

Here are a few examples of businesses for which you must be licensed or registered. Some businesses are even inspected by government agencies.

Barbers & Beauticians

Collection Agencies

Employment Agencies

Detectives

Licenses and Permits

Real Estate Brokers
and Salespersons

Correspondence Schools

Almost any business dealing with FOOD or MEDICINE

MANY, MANY MORE!

Licenses and Permits

In order to secure a license, you may have to:

- Put in an APPRENTICESHIP (Plumbers, Electricians, etc.)
- Get special training or schooling.
- Pass a test.
- Gain some experience in a particular field.

If you need a license but cannot get one because of your age, you can start preparing yourself by:

- Working for someone in the business you want to go into.
- Taking business courses such as management, marketing or accounting.
- Reading books about the business.

Rules and Regulations

KNOW WHAT IS INCLUDED IN MANY OF THE LAWS WHICH AFFECT YOUR BUSINESS

The government passes rules and regulations to protect people from bad business practices. This is where the government wants certain standards maintained.

Here are some types of rules and regulations:

- **Zoning and Building Codes** - Include building standards which must be met (fire safety, electrical, plumbing, etc.) as well as purposes for which the buildings in an area can be used (residential, business, etc.).
- **Health and Safety Laws** - Focus on standards for the labor force and working conditions for the labor force. They contain such provisions as:
  - Child Labor - Includes what should be the minimum age of workers.
  - Working Conditions - Include safety and environmental requirements.
  - Work Permits for Minors - Working papers come as part of this category, if you hire minors. If **you** are a minor, but are not employed by someone else, you don't need a work permit.

Rules and Regulations

- **Discrimination Rules & Laws** - These laws prohibit discrimination in hiring employees for positions according to:
  - Gender
  - Age
  - Religion
  - National and ethnic origin
- **Truth-in-Advertising** - Focuses on standards to judge whether advertising is truthful or misleading.
- **Truth-in-Lending** - Focuses on what must be disclosed to consumers when making loans to them.
- **Minimum Wages** - Set a minimum wage for jobs. Employers in many businesses may not pay less than the minimum wage.
- **Pension Laws** - Focus on how businesses must administer a pension plan for their employees.
- Many kinds of consumer laws

REMEMBER:

1. **No one knows all the laws!!**
2. **You don't have to know all the laws.**
3. **You need to know just the laws that apply to your business.**
4. **Not knowing the law is no excuse for breaking the law.**

Getting Help From a Lawyer

ACTIVITY:

FINDING A LAWYER

There are many kinds of lawyers - but you want one special kind called a **small business lawyer.**

Such a lawyer specializes in knowing about the laws that apply to businesses like yours.

You have two challenges:

1) Find a small business lawyer.

2) Get some help without spending too much money.

Challenge # 1 FINDING YOUR LAWYER

Method A: Ask your adult friends, family, priest, minister, or rabbi, who their lawyers are. Find one who knows a lawyer pretty well.

GET (in writing): The lawyer's name

The lawyer's phone number

NAME: _____

PHONE #: ( ) _____

CALL: The Lawyer

SAY: "My friend, (name your friend), told me to call you. They said you could tell me the name of the best small business lawyer around."

Getting Help From a Lawyer

Any other information given to you by your friend's lawyer:

THANK THE LAWYER FOR HIS HELP.

Getting Help From a Lawyer

Method B: Find the nearest bar association

(This has nothing to do with bars or taverns! It's just a big word that means Lawyer's Club. There is a Bar Association in every state, most counties and in many big cities.)

Bar Associations have lawyers who volunteer to help people who are too poor to pay for a lawyer. You want to find a business lawyer who will help you at little or no cost.

LOOK UP & WRITE DOWN: Any law office's name and phone number.

CALL: That phone number.

ASK: The secretary for the name and phone number of the nearest Bar Association.

WRITE DOWN: The name and phone number the Lawyer's office gives you.

NAME: _____

PHONE: ( ) _____

CALL: The Bar Association and ask for the name and phone number of a small business lawyer in town.

WRITE DOWN: That name and number.

NAME: _____

PHONE: ( ) _____

Getting Help From a Lawyer

CHALLENGE # 2 GETTING TO SEE THE SMALL BUSINESS LAWYER

CALL: The phone number the Bar Association gave you.

TELL THE SECRETARY:

My name is _____ and I am _____ years old. I would like to have an appointment with Mr./Ms. (lawyer's name).

I want to start a business and another lawyer told me that (lawyer's name) is the best small business lawyer around.

OR

My name is _____ and I am _____ years old. I would like to have an appointment with Mr./Ms. (lawyer's name).

The Bar Association said that (lawyer's name) can help me.

That should be enough. But, if you can't get the secretary to give you an appointment, send the lawyer a letter:

(date)

Dear (lawyer's name):

My name is (your name) and I am (your age) years old. I want to start a business and I need some legal advice. I was told you are the best around for advice about starting a business.

I don't need much of your time.

I'll call for an appointment.

Thank you very much.

Sincerely,

(sign your name)

The Rules of the Game

Pam had a couple of friends who liked to make baskets. They had become quite good at making all kinds of baskets — little ones, big ones, and specially designed ones. People always liked to get the baskets. Pam enjoyed them as well but she did not enjoy making them. She was a good salesperson, though, always knowing the right thing to say at the right time. She approached her friends to indicate that she would like to open a basket store in the neighborhood with the hope that they would be willing to supply the store with baskets to sell. It was agreed that they would do so. Pam decided that she would like to rent a very small space in the downtown area—little more than a big closet which she would open only on certain days. In looking at the legal aspects of the operation, answer the following:

1. If Pam was 17 years old, do you think she easily could rent the small space in the downtown area? Why or why not? Would it be easier for her to rent the space if she was married? Why or why not?

2. Name some of the contracts she would probably have to make in setting up the business.

3. Do you think she would need any licenses or permits to start the business in that location?

4. After getting established, she decided to bring on an employee. What are some extra taxes she would need to pay?

5. Explain how the following laws would affect Pam's business:

    a) Minimum Wage Law

    b) Truth-in-Advertising

    c) Anti-Discrimination Laws

    d) Zoning Laws

The Rules of the Game

Check Point! Check Your Understanding

1. Name two types of federal withholdings that an employer is responsible for on behalf of his/her employees:

   1)

   2)

2. There are a number of extra charges that an employer must pay for the employee. Name three major types of payroll contributions that you have to pay as an employer for your employees.

   1)

   2)

   3)

3. What is the major difference between withholding and the extra payroll contributions that an employer pays for his/her employees?

4. Name at least three types of special permissions the small business person must get from the government.

5. Why might a minor have difficulty getting a license required for a particular business?

6. Give three examples of regulations that the government has put through to set standards for the small business person.

   1)

   2)

   3)

7. Name two strategies for finding a small business lawyer.

   1)

   2)